

7 April 2015



Dr Peter Boxall
Chair
IPART

Submitted online at www.ipart.nsw.gov.au

Dear Dr Boxall

Review of Sydney Water's Operating Licence

The Public Interest Advocacy Centre (PIAC) thanks the Independent Pricing and Regulatory Tribunal (IPART) for the opportunity to provide comment on Sydney Water's Draft Operating Licence (the Draft Licence). PIAC wishes to provide comment on two aspects of the Draft Licence:

- IPART's efforts to achieve consistency between Sydney Water's licence and those of other major water utilities; and
- the introduction of late fees for residential customers.

In addition, PIAC notes that the Draft Licence includes various requirements for Sydney Water to adopt a systems-based management approach in a number of areas of its operation, including drinking water quality,¹ recycled water² and asset management.³ PIAC supported such an approach as part of its initial submission to this review.⁴ Accordingly, PIAC is pleased with IPART's decision to include such requirements in the Draft Licence. PIAC takes the view that using internationally recognised (and developed) management systems will contribute to best-practice management of Sydney Water's operations and deliver better outcomes for Sydney Water's customers.

Consistency in licencing public utilities

Broadly speaking, PIAC supports IPART's efforts 'achieve greater consistency in in licencing for major public water utilities'.⁵ PIAC anticipates that the early stages of such an initiative will comprise attempts to achieve consistency between Sydney Water and Hunter Water. Hunter Water is currently operating under its 2012-2017 licence. One benefit of achieving appropriate consistency in licences is that it would allow IPART to more easily assume licencing responsibility for potential future water utilities, such as the Central Coast Water Corporation.

Nonetheless, PIAC wishes to highlight two potential pitfalls in the pursuit of consistency. Firstly, in seeking consistency, it is vital that IPART remain mindful of the practical differences between different utilities. Secondly, provisions in the Sydney Water's Draft Licence should only be

¹ IPART, 2015, *Sydney Water Corporation Operating Licence 2015-2020: Draft*, cl 2.1.1(b).

² Ibid cl 2.2.1(b).

³ Ibid cl 4.1.1.

⁴ PIAC, 2014, *Licensing the public good*.

Available at: <http://www.piac.asn.au/publication/2014/10/licensing-public-good>

⁵ IPART, 2015, *Fact Sheet: Review of Sydney Water's Operating Licence – summary of draft operating licence*, 1.

brought into line with those in Hunter Water's existing licence where the Hunter Water provisions represent best-practice regulation.

While PIAC supports the principle of standardising licences across comparable water utilities, in pursuing this objective, IPART should remain mindful of any practical differences between the two utilities. Consistency in licencing should not be sought for its own sake, but rather where it will produce better outcomes for consumers. Accordingly, PIAC recommends that IPART consider the practical impact of each clause of the Sydney Water licence that is being made consistent with Hunter Water's licence to ensure it is appropriate for Sydney Water's circumstances, and will produce the best outcomes for consumers.

Secondly, PIAC submits that individual provisions in Sydney Water's licence should only be brought in line with those in Hunter Water's licence where the latter represents best practice in its current form. Where this is not the case, PIAC submits that consumers would be better served by best-practice licence conditions being applied to Sydney Water. While this would not achieve consistency in the short term, this could be rectified when Hunter Water's new licence is developed in two years time.

Recommendation 1

PIAC recommends that IPART only seek to standardise licence conditions for major public water utilities for licence conditions where such an approach delivers the best outcome for consumers.

Recommendation 2

PIAC recommends that IPART only bring clauses in Sydney Water's licence in line with those in Hunter Water's licence where the existing Hunter Water provisions represent best practice. Where this is not the case, PIAC recommends that IPART seek to achieve consistency when Hunter Water's licence is next reviewed and amended.

Late fees

As part of its customer contract (which forms part of its Operating Licence), Sydney Water is proposing to introduce a late payment fee. The 'terms and conditions and the maximum amount of the late fee would be set by IPART'.⁶ The late fee would also not apply to hardship customers.⁷ At the public hearing for this licence review, Sydney Water noted that the fee would be about \$5.⁸

Broadly speaking, PIAC does not support the imposition of late fees on utility bills. PIAC has previously argued that late fees on energy contracts penalise customers who are struggling to afford their bill. PIAC is also concerned that late fees and pay on time discounts combine to make the true price of an energy contract difficult to understand. In addition, such fees are generally regressive in nature, as the burden tends to be concentrated on those customers who cannot afford to pay their bills by the due date.

PIAC accepts, however, that there are significant differences between the retail energy market and the retail water and sewerage market. In particular, there is no competitive retail water market for domestic customers. Even customers who have water and sewerage services provided by an alternative supplier under the *Water Industry Competition Act 2006 (NSW)* are unable to 'churn' back to Sydney Water.

⁶ Ibid, 3.

⁷ Ibid.

⁸ Young, K, statement at IPART public forum for Sydney Water's licence review, Masonic Centre, Sydney, 30 May 2015 (transcript forthcoming).

PIAC submits, therefore, that before IPART agrees to allow Sydney Water to charge a late fee, it should seek information from Sydney Water about costs it incurs as a result of late payment. PIAC also recommends that IPART seek information from Sydney Water about how these costs have changed over time, and why Sydney Water has chosen to seek the ability to charge a late fee now.

In addition, PIAC believes that the option of a late fee should only be pursued if Sydney Water has examined other options for addressing the issue of late payment. If such an examination has taken place, PIAC also recommends that IPART assess the basis for Sydney Water's conclusions that the imposition of a late fee is likely to be the most effective option to address that problem.

As previously stated, PIAC notes that if IPART allows Sydney Water to impose a late fee on customers, the size and conditions of the late fee would be the subject of an IPART determination. As noted in PIAC's initial submission to this licence review,⁹ Sydney Water's upcoming price determination would be the appropriate time for IPART to make such a determination. Nonetheless, PIAC also wishes to make two comments about the conditions for charging late fees as part of this submission.

Firstly, the late fee should seek only to recover the cost incurred by Sydney Water as a result of late payment. Secondly, PIAC submits that the late fee should not only be waived for customer in the hardship program, but for customers who enter the hardship program shortly after failing to pay their bill on time. In this scenario, PIAC believes that the imposition of a late fee could help encourage customers who are experiencing financial difficulties to come forward and identify to Sydney Water that they are in hardship.

Recommendation 3

PIAC recommends that IPART seek further information from Sydney Water about the costs the utility incurs as a result of late payment, other options that Sydney Water has examined to encourage on-time payment, why a late payment fee is the best option to address the issue and why Sydney Water has chosen to pursue the issue at this time.

Thank you once again for the opportunity to provide comment on Sydney Water's Draft Operating Licence. If you require any further information, please do not hesitate to contact me or Oliver Derum, Senior Policy Officer in PIAC's Energy and Water Consumers' Advocacy Program on 02 8898 6518 or oderum@piac.asn.au.

Yours sincerely



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